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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/600,128 09/13/00 LANG

G 05725.0632

EXAMINER

IM22/0815

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PURI, A

ART UNIT

PAPER NUMBER

1751

DATE MAILED:

08/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/600,128

Applicant(s)

LANG ET AL.

Examiner

Anil K Puri

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1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 32-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claims 32-65 are pending in this application. Claims 1-31 are canceled and entered as requested.

Information Disclosure Statement

The information disclosure statement filed 11/06/00 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to there in have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 35 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant recited "Biotechnology and microbiological origin" is a broad term, which does not provide any metes and bounds that render the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a), which forms the basis for all obviousness rejections, set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Aaslyng et al [WO 97,19998]. in view of Audousset et al [U.S. 5769903]

The primary reference of Aaslyng teaches a hair dyeing composition comprising laccase enzyme (see page 3 line 29-31) aromatic dye precursor as oxidation bases,(see 6, line 19 page 7 line 27) ,modifiers as couplers(see page 8 lines 5-12) and method for dyeing hair. Aaslyng further teaches laccase enzyme selected from plant, animal, fungal , bacteria origin as claimed in claim 32-36(see page 5 line 20). The fungal origin enzyme include Aspergillus as claimed in claims 37-38, (see page 5,line 20-24) The quantity of laccase enzyme in dyeing composition can be calculated as claimed in claim 39(see page 10,line 38, page 11, line 1-2). The dye composition further has media, pH and other adjuvants as claimed in claim 60-62 (see page 8, line 30-32 and example on page 9-10

Prior art however does not teach heterocyclic bases and heterocyclic couplers but suggest the use of several aromatic dye precursor as oxidation bases in the disclosed composition.

Audousset in analogs art teaches both aromatic and heterocyclic bases in hair dyeing composition which include pyridine derivatives, pyrimidine derivative and pyrazole derivative (see col.6 lines 40-44)

Audousset also teaches heterocyclic couplers as benzimidazole (see col.2 line 65-66), benzomorpholine derivatives (see col.3 lines 24-37) and sesamol derivatives (see col.4

lines 16-28) as claimed in claim 32 and 44 -55 The amount of heterocyclic bases and couplers are with in the range as claimed in claim 56-57(see col.9 lines 8-22)

Therefore in view of the teaching of the secondary reference of Audousset one having ordinary skill in the art would be motivated to modify primary reference of Aaslyng by substuting other dyes with heterocyclic bases and couplers in dyeing composition as described above to modify different color and shades in the dyeing of hair. Such modification would be obvious because one would expect that the use of heterocyclic oxidation bases and couplers would be similarly useful and applicable to the Aaslyng's composition for dyeing hair because they are thought to be functional equivalent by Audousset et al

Claims 63-64 is drawn to the method of dyeing a hair using the above said composition. Aaslyng [WO 97/19998] on page 8 discloses similar method of dyeing hair.

Claim 65 is drawn to kit or device for dyeing hair which comprises couplers, oxidation base and enzyme. Therefore a person having ordinary skill in the art would be motivated to select the known ingredients of kit which would have been obvious

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil K Puri whose telephone number is 703/605-4427. The examiner can normally be reached on 8:30 AM TO 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yougendra Gupta can be reached on (703)-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703/305-3599 for regular communications and 703/305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

703/308-0661


YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

AKP
July 30, 2001